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REF: State 158802

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the SIFN and the SIOC specify that foreign-invested enterprises must receive the same regulatory treatment accorded local firms. Foreign companies may invest in state-owned firms undergoing privatization and are eligible to participate in publicly-financed research and development programs.

¶5. The Investment Commission (IC) of the Ministry of Economic Affairs screens applications for investment, acquisitions, and mergers. According to the IC, approximately 98% of projects with an investment value less than NT$500 million (US$15.4 million at an exchange rate of NT$32.5 per US$) are excluded from the negative list; the IC estimates that approval for these projects is generally granted within two working days at the IC division chief level. For investments in the range of NT$500 million (US$15.4 million) to NT$1,500 million (US$46.2 million) excluded from the negative list, approval authority rests with the IC Executive Secretary and normally is granted within three working days. Approval of

investments in industries above NT$1,500 million or on the negative list requires two weeks because those investments must be referred to the relevant supervisory ministries and require approval of the IC Chairman or IC Executive Secretary. Investments involving complications such as mergers and acquisitions require screening at the monthly meeting of an inter-ministerial commission.

¶6. Taiwan offers incentives to encourage investment, including accelerated depreciation and tax credits for investments in emerging or strategic industries, pollution-control systems, production automation, and energy conservation. Equipment for R&D purposes can be brought into Taiwan duty-free. Other incentives include low-interest loans for developing new and/or cutting edge products, upgrading traditional industries, and importing automation or pollution-control equipment. A broad five-year tax holiday for new investments was re-instituted in January 1995. Incentives for manufacturing firms to locate factories in designated industrial parks to include free rent the first two years, 40% discount on rent the next two years, and 20% discount on rent in the fifth and sixth years has been extended to December 2008. Under another incentive program, state-owned land is available for investors rent-free for the first four years and 50% off for the next six years. As part of its financial reform plan, Taiwan encourages and provides incentives for banks, insurance companies, securities firms, and financial holding companies to merge.

¶7. In 2005 and 2006, Taiwan authorities slashed some investment tax incentives as a part of a tax reform designed to reduce the fiscal deficit. A new law to levy a ten-percent alternative minimum tax on business firms became effective in January 2006. Since early 2005, Taiwan authorities have cut the number of industries entitled to tax incentives by one-third and doubled the thresholds in annual R&D expenses for tax offsets from NT$15-20 million (US$462 thousand to US$615 thousand) to NT$30-40 million (US$923 thousand to US$1.23 million). The tax credit for procurement of automation equipment has been lowered from 11% to 7% and that for procurement of technologies reduced from 10% to 5%. The tax credit for projects in remote poor areas has been cut from 20% to 15%.

A.2 Conversion and Transfer Policies

¶8. There are relatively few restrictions on converting or transferring direct investment funds. Foreign investors with approved investments can readily obtain foreign exchange from a large number of designated banks. The remittance of capital invested in Taiwan must be reported in advance to the IC, but IC

approval is not requited. Declared earnings, capital gains, dividends, royalties, management fees, and other returns on investments can be repatriated at any time. For large transactions requiring the exchange of NT$ into foreign currency which could potentially disrupt Taiwan's shallow foreign exchange market, the central bank may require the transaction to be scheduled over several days. There is no written guideline on the size of such transactions, but amounts in excess of US$100 million may be affected. Capital movements arising from trade in merchandise and services, as well as from debt servicing, are not restricted. No prior approval is required for movement of foreign currency funds not requiring exchange between the NT dollar and the foreign currency. No prior approval is required if the cumulative amount of inward or outward remittances does not exceed the annual limit of US$5 million for an individual or US$50 million for a corporate entity.

¶9. Total outbound investment may not exceed 40% of the investing company's net worth or paid-in capital (whichever is less), unless the company charter waived the 40% limit or unless such investment is approved by shareholders. A local company is not required to obtain prior approval for overseas investments; however, such an approval exempts the company from the annual capital outflow limit of US$50 million. Investments in China are subject to additional restrictions.

¶10. Taiwan has significantly relaxed restrictions on Taiwan entities' direct investment in China down to a negative list covering about 100 manufacturing products and 430 agricultural products. Taiwan has abolished a requirement for direct investment in China to go through third nations or areas and removed a direct investment limit of US$50 million. The ceiling on small and medium enterprises' investment in China is NT$80 million (US$2.5 million). For large enterprises, total China investment may not exceed 20% of the company's net worth exceeding NT$10 billion, 30% of net worth from NT$5 billion to NT$10 billion (US$308 - 615 million), and 40% of the net worth below NT$5 billion (US$154 million). For investments below US$200,000, approval can be issued on the same day of submitting the application. Taiwan authorities require an investor to submit a quarterly financial report if the cumulative investment in a project exceeds US$20 million. Investors are encouraged to repatriate their capital and earnings.

¶11. Taiwan authorities have actively encouraged investment in Southeast Asia and India. Investments are also encouraged in a number of countries with which Taiwan has diplomatic relations, mainly in Central America. Incentives include loans and/or overseas investment insurance from Taiwan's Export-Import Bank.

A.3 Expropriation and Compensation

¶12. No foreign-invested firm has ever been nationalized or expropriated in Taiwan. No examples of "creeping expropriation" or official actions tantamount to expropriation have been reported. Under Taiwan law no venture with 45% or more foreign investment can be nationalized for a period of 20 years after the venture is established. Expropriation can be justified only for national defense needs and "reasonable" compensation must be given.

A.4 Dispute Settlement

¶13. Taiwan is not a member of the International Center for the Settlement of Investment Disputes or the New York Convention of 1958 on the recognition and enforcement of foreign arbitrage awards. Investment disputes with the Taiwan authorities are not common. Normally, Taiwan resolves disputes according to domestic laws and regulations.

¶14. Taiwan has comprehensive commercial laws, including the Company Law, Commercial Registration Law, Business Registration Law, Commercial Accounting Law as well as laws for specific industries. Taiwan's Bankruptcy Law guarantees that all creditors have the right to share the assets of a bankrupt debtor on a proportional basis. Secured interests in property, both chattel and real, are recognized and enforced through a registration system.

¶15. Taiwan's court system is generally viewed as independent and free from overt interference by the other official branches. Judges are generally over-worked. In response to complaints about the slow pace of judicial decision-making, Taiwan authorities adopted measures in 2002 to monitor case processing time. Simplified courts have been set up to deal with minor cases that can be resolved quickly. The legislature enacted a bill to set up special courts for intellectual property rights (IPR) cases in March 2007, and the courts are scheduled to start reviewing cases in July 2008. The judgments of foreign courts with jurisdictional authority are enforced in Taiwan by local courts on a reciprocal basis.

A.5 Performance Requirements and Incentives

¶16. All of Taiwan's performance requirements were removed in January 2002 upon Taiwan's WTO accession. Like domestic firms, foreign-invested companies must be located in areas zoned for appropriate industrial or commercial use. Taiwan does not require

that firms transfer technology, locate in specified areas, or hire a minimum number of local employees as a prerequisite to investment.

¶17. Manufacturing firms located in export-processing zones and science-based industrial parks are required to export all of their production to obtain tariff-free treatment of production inputs. However, these firms may sell on the domestic market upon payment of relevant import duties.

¶18. When acceding to the WTO in January 2002, Taiwan promised to accede to the Government Procurement Agreement (GPA). Taiwan also promised to phase out industrial offset requirements (IOR) for non-military public procurement upon signing the GPA. Taiwan has yet to accede to the GPA, but even without GPA membership, Taiwan started reducing the IOR coverage of non-military procurements in ¶2004. Currently, only railway and power generation projects are subject to IOR. For these two categories, a contract of US$10 million or more triggers an offset obligation of at least 33%. For military procurements, the threshold is US$5 million, and the minimum offset obligation is 40%. In some military cases, the offset ratio has reached 70% due to legislative pressure. Since the first industrial offset contract (IOC) was signed in 1988, Taiwan has signed IOCs with 51 suppliers from 12 foreign countries. Commitment value of these contracts total US$8.4 billion, and realized contracts amounted to US$5.3 billion. Forty-six percent of the total realized value was directed to transfer of technologies, 27% to foreign direct investment in Taiwan, 15% to procurement from Taiwan, 5% to trade promotion, 4% to personnel training, and 2% to assessment certification. Taiwan has published industrial offset rules in both Chinese and English to which readers can access

online.

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A.6 Right to Private Ownership and Establishment
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¶19. Private investors have the right to establish and own business enterprises, except in a limited number of industries involving national security and environmental protection. Private entities can freely acquire and dispose of interests in business enterprises. Private firms have the same access as state-owned companies to markets, credit, licenses, and supplies. Taiwan authorities have eliminated state-owned monopolies.

A.7 Protection of Property Rights

¶20. Taiwan has continued efforts to improve its IPR legal regime and enforcement. The Intellectual Property Office (TIPO) under the Ministry of Economic Affairs as well as other relevant agencies have adopted programs to crack down on Internet and physical piracy. In addition, the Ministry of Education (MOE) announced a campus IPR action plan in October 2007 to strengthen management of academic computer networks and restrict illegal textbook coping by students. Taiwan has amended laws and regulations to meet international standards and requirements. Taiwan has also amended the Patent Law and Copyright Law to extend the term of protection from 18 years to 20 years for some patents and to define computer software as literary works. Taiwan has enacted the Optical Media Law to address CD/DVD piracy problems. The law has established a legal framework for regulation of CD manufacturing plants through licensing and the use of Source Identification (SID) codes in production. Convicted violators may receive prison terms of up to three years and fines of up to NT$6 million (US$184,600). The Optical Media Law, together with effective enforcement, has led to a dramatic decrease in large-scale production of counterfeit CD products. Amendments to the Copyright Law in 2003 and 2004 made copyright infringement a public crime, increased penalties for counterfeiters and made it illegal to tamper with technical protection measures. The Pharmaceutical Law as amended in 2004 and 2007 stiffened penalties for production, distribution and sale of counterfeit medicines. A 2005 amendment to the Law to authorized pharmaceutical data exclusivity for five years to prevent unfair commercial data use

--the same data-exclusivity period as in the United States--but U.S. original-drug manufacturers complain that Taiwan authorities unfairly allow generic-pharmaceutical makers to apply for a license and a Bureau of National Health Insurance reimbursement price for their knock-off drugs even before the original drug's data-exclusivity period has expired. A June 2007 amendment to the Copyright Law subjects illegal file sharing, such as P2P, to a maximum jail term of two years. In March 2007, Taiwan completed legislation of the IP Court Organization Law for establishment of a specialized IP court which is scheduled to start reviewing cases in July 2008.

¶21. In 2003, Taiwan established the Integrated Enforcement Task Force (IETF), which consists of 220 IP police officers. In 2004, the task force was transformed to a permanent IP police squadron. The IP police have frequently raided retail optical- media sales points. This has led to a significant decrease in the number of counterfeit CD and DVD vendors. Other enforcement measures include increasing the reward by ten times to NT$10 million (US$300,000) to IPR informants for counterfeit -goods seizures , and setting up an anti-pirating CD export task force to strengthen inspection of

commodities entering or leaving Taiwan.

¶22. While Taiwan has improved IPR protection, transshipment of counterfeit products from China to the United States remains a problem. Counterfeit goods from Taiwan seized by U.S. Customs dropped from $26.5 million in 2002 to $1.1 million in 2005. The value of seized counterfeit goods was $1.8 million in 2006 and $2.8 million in the first half of FY2007. In addition, Taiwan is facing a growing Internet-based piracy threat. Rights owners continue to complain of slow progress in judicial cases, or poor protection on trade dress properties, such as unregistered marks, packing configurations, and outward appearance features. Although counterfeit and parallel imported pharmaceuticals are still found in the Taiwan marketplace, the legislature passed amendments to the Pharmaceutical Law in 2004 and 2007 to increase the penalties for dealing in counterfeit pharmaceuticals, resulting in marked increases in fines and jail terms over the past several years.

A.8 Transparency of the Regulatory System

¶23. Taiwan has a set of comprehensive laws and regulations regarding taxes, labor, health and safety.

¶24. Foreign investors note that in addition to tax incentives, Taiwan's science-based industrial parks and export processing zones have simple and transparent bureaucratic procedures for the investment application process. Outside of these areas, the Department of Investment Services (DOIS) functions as the coordinator between investors and all agencies involved in the investment process. The Investment Commission (IC) is charged with reviewing and approving inbound and outbound investments.

¶25. Taiwan has simplified work-permit procedures for foreign white-collar employees. In March 2004, the Council of Labor Affairs (CLA) set up a single window to issue work permits for all white-collar workers. It takes 7 to 10 days for the CLA to issue work permits. The work permit may be extended indefinitely as long as the employer considers the employment necessary.

¶26. Taiwan has removed the job experience requirement for employment of foreign management professionals by global operational headquarters and R&D centers as well as business firms of designated industries. White-collar workers having a master's degree or above are not subject to any job experience requirement. Those with lower education levels are required to have job experience. Foreign white- and blue-collar workers have the right to obtain permanent residence status after they have legally stayed in Taiwan for seven consecutive years with the minimum time of residence of 180 days per year in Taiwan. The seven-year requirement is waived for high-tech personnel and those who have made "significant contributions" to Taiwan.

¶27. The entry-visa issuance procedures for foreign white-collar workers who work for foreign-invested companies are relatively simple. A foreign executive who enters Taiwan with a tourist visa is no longer required to leave the island before the tourist visa can be changed to an employment visa. A foreign executive whose employment visa expires is not required to exit before renewing the visa.

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A.9 Efficient Capital Markets and Portfolio Investment
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¶28. A wide variety of credit instruments, all allocated on market terms, are available to both domestic- and foreign-invested firms. Legal accounting systems are largely transparent and consistent with international standards. The regulatory system is generally fair. Foreign portfolio investors are no longer subject to foreign ownership limits or investment fund limits. In recent years, Taiwan authorities have taken a number of steps to encourage a more efficient flow of financial resources and credit. The limit on NT dollar deposits that a branch of a foreign bank may take has been lifted. Non-residents are permitted to open NT dollar bank accounts, which are subject to capital-flow controls which limit each remittance to US$100,000. There are no restrictions on residents opening bank accounts overseas. Limits on branch banking have been lifted. A freeze on new bank branches to encourage consolidation was removed in 2007. Restrictions on capital flows relating to portfolio investment have been removed. The insurance and securities industries have been liberalized and opened to foreign investment. Access to Taiwan's securities markets by foreign institutional investors has also been broadened.

¶29. Taiwan abolished a complicated regulatory system governing foreign portfolio investment in October 2003. Since then, any foreign institutional investor is allowed to enter Taiwan's markets. Subsequent registration has replaced the need for prior approval. There is no minimum asset requirement. Investment and capital flows are not limited. On-shore foreign investors (like other residents) are still subject to capital flow limits of US$5 million for an individual foreign investor and US$50 million for an unregistered foreign company.

¶30. Taiwan has removed all legal limits on foreign ownership except for investors from China in nearly all companies listed on the Taiwan Stock Exchange (TAIEX). These exceptions include power distribution, telecommunications, mass media firms, and airline companies. There have been no reports of private or official efforts to restrict the participation of foreign-invested firms in industry standards-setting consortia or organizations.

¶31. Taiwan has a tightly regulated banking system. Since the mid-1980s, the financial sector as a whole has been steadily opening to private investment. The market share held by foreign banks had been relatively small until four foreign banks and three foreign private equity funds completed their acquisitions of Taiwan banks in
¶2007. The market share of all foreign banks in Taiwan (including the seven acquired by foreign investors in 2007) increased from 8% in 2006 to 15% in terms of assets in 2007, or from below 3% to nearly 7% in terms of loans. The establishment of a number of new securities firms, banks, insurance companies, and holding companies has underscored this liberalization trend and enhanced competition. Over the past decade, nine state-owned banks have been privatized. The only Taiwan-based reinsurance company was privatized in 2002. State-controlled banks still dominate the banking sector, however, and hold a market share of 51% in terms of assets and 56% in terms of loans. This share has been falling in recent years as Taiwan has begun privatization efforts.

A.10 Political Violence

¶32. Taiwan is a relatively young multi-party democracy with

democratic political institutions that are still evolving. The close margin in the 2004 presidential election resulted in an attack on election offices and several large-scale demonstrations.

Nevertheless, these incidents and other protests were peacefully resolved in a short time. There have been no reports of politically motivated damage to foreign investment. Both local and foreign companies have, however, been subject to protests and demonstrations relating to labor disputes and environmental issues.

A.11.a. Corruption

¶33. Taiwan has implemented laws, regulations, and penalties to combat corruption. The Corruption Punishment Statute and the criminal code contain specific penalties for corrupt activities. In January 2004, legislation doubled the penalties for corruption by financial personnel, including maximum jail sentences of up to ten years.

¶34. We are not aware of cases where bribes have been solicited for investment approval. Both central and local governments offer investors incentives, including free rent on land for the first several years and discounts in subsequent years. Taiwan authorities encourage foreign investment and would take action against officials and individuals convicted of profiting illegally from foreign investors.

¶35. The Government Procurement Law promulgated in 1998 and amended in February 2001 was an element of promised significant improvements upon WTO accession. The Public Construction Commission (PCC) now publishes all major state procurement projects that require open bidding, in accordance with WTO transparency requirements. The PCC organizes inspection teams to monitor all public procurement projects both at the central and local levels, and publishes results of bidding and of inspections. A task force has been organized to investigate complaints.

¶36. Authorities generally investigate allegations of corruption and take action to penalize corrupt officials. Since its inauguration in May 2000, the Chen Administration has strengthened anti-corruption efforts. Since then, prosecutors have indicted 10,807 persons for corruption, including prominent personalities, 632 senior officials (department director level and above) and 623 elected officials. Indicted elected officials included 21 legislators. In 2006, the Taiwan High Court upheld a district court's four-year jail sentence for a former speaker of the legislature on a charge of taking a NT$150 million (US$4.6 million) bribe. In 2007, prosecutors indicted a serving minister and a vice minister for receiving bribes, while district courts convicted another two vice ministers with jail terms of up to 16 years.

¶37. Attempting to bribe, or accepting a bribe from, Taiwan officials constitutes a criminal offense, punishable under the Corruption Punishment Statute and the Criminal Code. The Corruption Punishment Statute as amended in late 2002 treats payment of a bribe to a foreign official as a criminal act and makes such a bribe subject to criminal prosecution. The maximum penalty for corruption is life imprisonment plus a maximum fine of NT$3 million dollars (US$92,300). In addition, the offender may be barred from holding public office. The assets obtained from acts of corruption may be seized and turned over to either the injured parties or the Treasury.

¶B. Bilateral Investment Agreements

¶38. Taiwan has concluded bilateral investment guaranty agreements with the following 26 countries: Argentina, Belize, Burkina Faso,

Costa Rica, Dominica, El Salvador, Guatemala, Honduras, India, Indonesia, Liberia, Malaysia, Macedonia, the Marshall Islands, Nicaragua, Nigeria, Panama, Paraguay, the Philippines, Saudi Arabia, Senegal, Singapore, Swaziland, Thailand, Malawi, and Vietnam. In addition, there is an agreement to guaranty Taiwan's investment in Malawi and other agreements to protect U.S. investment in Taiwan (see next paragraph). (An agreement with Latvia signed in 1992 was revoked in August 2004.)

¶39. The terms of the 1948 Friendship, Commerce, and Navigation Treaty between the Republic of China and the United States are still in force, and under the terms of the agreement U.S. investors are generally accorded national treatment and are provided with a number of protections, including protection against expropriation. Taiwan and the United States also have an agreement, signed in 1952, pertaining to investment guarantees that serve as the basis for the U.S. Overseas Private Investment Corporation (OPIC) program in Taiwan. In September 1994, representatives of the United States and Taiwan signed a bilateral Trade and Investment Framework Agreement (TIFA) to serve as the basis for consultations on trade and investment issues. Consultations on a bilateral investment agreement between the United States and Taiwan began in 1996, and the latest round took place in Washington in 2007.

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¶C. OPIC and Other Investment-Insurance Programs
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¶40. OPIC programs are available to U.S. investors, though U.S. investors have never filed an OPIC insurance claim for an investment in Taiwan. Taiwan is not a member of the Multilateral Investment Guaranty Agency.

¶D. Labor

¶41. Unemployment, at just under 4%, has declined since 2002, but is still above the 1.45% to 2.99% range in the 1990s. Taiwan's aging population, however, has prompted greater demand for foreign caregivers. The percentage of the population aged 65 and above has increased from below 4% in the 1970s to above 10% in late 2007. In response, the number of foreign caregivers has grown to 160,000 and accounts for 45% of blue-collar foreign workers in Taiwan. In the industrial sector, despite relaxation of employment restrictions, the number of the sector's blue-collar foreign workers declined 13% from 228,000 in 2000 to 197,770 in November 2007.

¶42. There are no special hiring practices in Taiwan. Wages typically include a one-month bonus at the end of a year. Benefits often include meals, transportation, and dormitory housing. Dividend-sharing is common among high-tech industries. A standard labor insurance program is mandatory. The program provides paid maternity leave, a lump-sum or annuity retirement plan, and other benefits. A new retirement system implemented in July 2005 abolishes the voluntary retirement scheme under an old system which still covers 30% of total employment population. The old system grants employees voluntary retirement at age 55 with 15 years of service. Employees hired after July 2005 must join the new system, with a retirement age of 60. The new system requires employers to contribute six percent of their monthly wage to accounts at designated banking institutions. The accounts follow employees as they move from one employer to another. A universal national health

insurance system, to which employers contribute, covers all Taiwan residents.

¶43. Taiwan provides unemployment relief based on the Employment Insurance Law enacted in 2002. Alternatives for unemployment pay include vocational training allowance for jobless persons and employment subsidies to encourage employment of jobless persons. The Labor Standards Law (LSL) sets a standard eight-hour workday and a biweekly maximum of 84 hours. Legislation adopted in late 2000 set a five-day workweek for the public sector, effective January
¶2001. Over half of private firms have adopted the five-day

workweek. The LSL restricts child labor and requires employers to provide overtime pay, severance pay, and retirement benefits. The LSL covers both manufacturing and service sectors. Violators are liable to criminal penalties (jail terms) and administrative punishments (fines).

¶44. In July 2007, Taiwan raised the minimum monthly wage by 9.1% to NT$17,280 (US$532) and the minimum hourly wage from NT$66 (US$2) to NT$95 (US$2.9). Monthly manufacturing sector wages in the first ten months of 2007 averaged NT$43,704 (US$1,345) including overtime, allowances and bonuses.

¶45. Labor unions have become more active and independent since Taiwan's martial law was lifted in 1987. Privatization and the new retirement system contributed to an increase in labor disputes over the past three years. Taiwan is not a member of the International Labor Organization (ILO) but adheres to the ILO Conventions in protection of worker's rights.

¶E. Foreign Trade Zones/Free Ports

¶46. The first free trade/free port zone began operation at Keelung, Taiwan's northern port, in November 2004. Another four were established in 2005. These four are located at Taoyuan International Airport and the international harbors in Kaohsiung, Taichung, and Taipei. Taiwan authorities have relaxed restrictions on movement of merchandise, capital and personnel into and out of such zones. Foreign investors are accorded national treatment.

¶F. Foreign Direct Investment Statistics

¶47. Statistics on foreign direct investment in Taiwan are available from two sources. The Investment Commission (IC) publishes monthly and yearly foreign investment approval statistics by industry and by country. The Central Bank of the ROC (Taiwan) (CBT) publishes foreign direct investment arrivals on a quarterly and yearly basis. CBT data, contained in balance-of-payments (BOP) statistics, are not further classified by industry or country.

¶48. In 2006, strong recovery of Taiwan's export sector far offset adverse effects of delinquent credit/cash card debt problems which dampened private consumption in the first half of the year. Growth in exports, which account for over 60% of Taiwan's GDP, accelerated from 8.8% in 2005 to 13% in 2006, driving Taiwan's 2006 real GDP growth to nearly 5%, from 4.2% in 2005.

¶49. Unexpectedly strong economic performance in the second half of 2007 prompted both domestic and foreign forecasters to raise Taiwan's 2007 real GDP growth estimates to 5.2-5.5%. The official estimate is 5.46%. Year-on-year export growth increased from 7.6%

in the fourth quarter of 2006 to 14.4% in October-November 2007. Meanwhile, growth in export orders rose from 9.6% to 17.6%, and growth in manufacturing production accelerated from 0.5% to a three-and-a-half-year high of nearly 15%. Most Taiwan forecasters anticipate that Taiwan's economic growth in 2008 will slow to below 4.5%. They believe that the U.S. sub-prime mortgage problem, as well as higher international prices for oil and grains, will dampen world economic performance and reduce demand for products from the export-oriented economy of Taiwan. In the first eleven months of 2007, approved FDI increased 20% year-on-year to US$14 billion. Approved FDI was concentrated in banking, trade, electronics, basic metal, and nonmetallic products. These five categories accounted for nearly 80% of total approved FDI.

¶50. Approved direct investment in electronics industries (including communications, semiconductor, TFT-LCD and other optical electronic projects) increased from 6.4% of total approved FDI prior to 1995 and 19% in 1996-2000 to 24.5% in 2001-2005 and further to 47% in
¶2006. Meanwhile, the percentage share for financial services increased from 7.6% prior to 1995 and 22% in 1996-2000 to 25.6% in

2001-2005 and 34% in 2006. Nearly 80% of the approved inbound direct investment in Taiwan's electronics industries came from the United States, Europe and Japan.

¶51. The United States and Japan used to be the two main sources of Taiwan's foreign investment, but have been replaced by the tax havens in the British Territories in America (BTA), which harbor a growing number of multinational corporations (many with roots in Taiwan). According to official Taiwan statistics, approvals for U.S. investment from 1952 to 2006 totaled US$15 billion (US16.1 billion according to official U.S. figures), or 19% of total foreign investment. Of total U.S. investment, 32% was directed toward the electronics and electrical industries, and 44% toward the service sector. Approvals for Japanese investment amounted to US$14 billion, or 18% of total foreign investment, of which 31% was in electronics and electrical industries and 34% in the service sector. In 2006, new EU investment exceeded that of the United States or Japan due to a major holdings transfer by the Philips Company.

¶52. Approvals for investment from the BTA surged steadily from US$76 million in 1994 to US$1.2 billion in 1999 when the BTA surpassed the United States and Japan to become the largest source of foreign investment in Taiwan. Investment from the BTA during 1999-2005 accounted for 27% of total approved investments, compared to 18% from the United States, another 18% from Europe, and 15% from Japan. In 2006, a holdings transfer by the Philips Company drove down the BTA's share to 16.5%, the United States' share to 19% and Japan's share to 18%, while Europe's share reached 21.6%. One quarter of the investment from the BTA was directed towards financial services and another quarter to the electronic and electrical industries.

¶53. As a relatively open and liberal economy, Taiwan receives foreign investment while its businesses invest overseas, especially in China, Southeast Asia and the Americas. According to balance-of-payments statistics compiled by the central bank, outbound direct investment has exceeded inbound direct investment every year since 1988. According to IC statistics, by 2006, cumulative approvals for outbound investments totaled US$103.7 billion. The main recipient of Taiwan investment has been China, which has received over half of Taiwan's outbound investment. Approved investments in China increased by 27% in 2006 when 64% of Taiwan's new overseas investment went to China.

¶54. Taiwan business firms started to relocate their production

bases to China in the late 1980s. Production lines in China gradually shifted from cheap labor-oriented industries in the late 1980s to products requiring lower-end technologies, such as PCs and motherboards, in the early 2000s. The WTO accession of China and Taiwan in 2002 prompted Taiwanese business firms to accelerate relocation to China to sharpen their competitive edge in exports. Taiwan factories based in China use the lower labor and land costs to process Taiwan-made production inputs into finished goods for exports to such industrial markets as the United States, Japan and Europe, and also for final sale in China. Rising labor and land costs in China have prompted some Taiwan firms to move from China to nations in South and Southeast Asia, including Vietnam.

¶56. Taiwan's annual registered direct investment across the Taiwan Strait grew from US$1.25 billion in 1999 to US$6.0 billion in 2005 and US$7.6 billion in 2006. As a result of this trend Taiwan factories, primarily those based in China and Vietnam, produced nearly 50% of export orders received by Taiwan companies' headquarters by November 2007, up from 11.5% in early 2000, and 2007 ratio reached 85% for information technology (IT) firms. Greater China (China plus Hong Kong) replaced the United States as Taiwan's largest export market in 2001, and Greater China's share of Taiwan's exports in the first 11 months of 2007 reached 41%, much higher than the 13% for the United States and 11% for the European Union.

Table 1
Foreign Investment Approvals by Year and by Area
(1952-2006) (unit: US$ million)

Year	U.S.A.	Japan	Central America	Europe	Hong Kong	Other	Total
52-89	3,067	2,983	341	1,312	1,198	2,049	10,950
1990	581	839	66	283	236	297	2,302
1991	612	535	60	165	129	277	1,778
1992	220	421	37	165	213	405	1,461
1993	235	278	38	214	169	279	1,213

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AMEMBASSY SINGAPORE
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USDOC FOR 3132/USFCS/OIO/EAP/WZARIT
TREASURY FOR OASIA/TTYANG AND HAARSAGER
TREASURY ALSO PASS TO FEDERAL RESERVE/BOARD OF
GOVERNORS, AND SAN FRANCISCO FRB/TERESA CURRAN, AND NEW YORK FRB
MARI BOLIS

E.O. 12958: N/A
TAGS: EINV EFIN ECON PINR OPIC KTDB USTR KIPR TW
SUBJECT: Taiwan's 2008 Investment Climate Statement

REF: State 158802

A.1 Openness to Foreign Investment

¶1. Taiwan officially welcomes foreign direct investment. Taiwan's science-based industrial parks, export processing zones, and free trade zones offer streamlined procedures. Taiwan has made significant improvement in protecting intellectual property.

¶2. As part of its efforts to improve the investment climate, Taiwan no longer has a list of permitted investments, but maintains a "negative" list of industries closed to foreign investment to maintain security and environmental protection. Liberalization has reduced that list to less than one percent of manufacturing categories and less than five percent of service industries. The latest significant liberalization took place in February of 2003 when alcohol production, agricultural production, fishing, and animal husbandry were opened to foreign investors. Prior approval is required, but this requirement will be dropped for projects with

an investment below NT$8 million (U$246,000) if legislation pending before the legislature passes into law. To live up to its WTO accession commitments, Taiwan opened private production of cigarettes in 2004 without any foreign ownership limit. Railway transport, freight transport by small trucks, pesticide manufacture, real estate development, brokerage, leasing, and trading are all completely open to foreign investment. After its accession to the WTO in January 2002, Taiwan started permitting imports of gasoline and liquid natural gas (LNG) by the private sector, without any foreign ownership restriction. It also permitted private wine and cigarette imports. In April 2004, Taiwan dropped mining and ordinary trucking services from the negative list but added single-axle truck leasing.

¶3. Most foreign ownership limits have been removed. The foreign ownership limit on wireless and wireline telecommunications firms is 60%, including a direct foreign investment limit of 49%. For the state-owned Chunghwa Telecom Co., which controls 97% of the fixed line telecom market, the limit on direct and indirect foreign investment was raised from 49% to 55% in December 2007. There is a 20% limit on foreign direct investment on cable television broadcast services, but foreign ownership of up to 60% is allowed through indirect investment via a Taiwan entity. Foreign investors now control three of the five largest cable TV networks in Taiwan. Foreign ownership limits are 49.99% for satellite television broadcasting services and piped distribution of natural gas and 49% for high-speed railways. A 50% foreign ownership limit remains on Taiwan-flagged merchant ships, power transmission and distribution, ground-handling firms, air-cargo terminals, air-catering companies,

and air-cargo forwarders. The 50% foreign ownership limit for ground-handling firms, air-cargo terminals, air-catering companies, and air-cargo forwarders was removed for investors from WTO members in November 2001. In July 2007, the foreign ownership limit on airline companies was raised from 33.33% to 49%, with a separate limit of 25% for any single foreign investor.

¶4. Regulations governing foreign direct investment principally derive from the Statute for Investment by Foreign Nationals (SIFN) and the Statute for Investment by Overseas Chinese (SIOC). These two laws permit foreign investors to use either foreign currencies or NT dollars. In mid-2006, Taiwan authorities started permitting NT dollar loans obtained from local banks to serve as sources of foreign direct investment. Companies with foreign ownership below one-third are exempt from limitations on the negative list. Both the SIFN and the SIOC specify that foreign-invested enterprises must receive the same regulatory treatment accorded local firms. Foreign companies may invest in state-owned firms undergoing privatization and are eligible to participate in publicly-financed research and development programs.

¶5. The Investment Commission (IC) of the Ministry of Economic Affairs screens applications for investment, acquisitions, and mergers. According to the IC, approximately 98% of projects with an investment value less than NT$500 million (US$15.4 million at an exchange rate of NT$32.5 per US$) are excluded from the negative list; the IC estimates that approval for these projects is generally granted within two working days at the IC division chief level. For investments in the range of NT$500 million (US$15.4 million) to NT$1,500 million (US$46.2 million) excluded from the negative list, approval authority rests with the IC Executive Secretary and normally is granted within three working days. Approval of investments in industries above NT$1,500 million or on the negative list requires two weeks because those investments must be referred to the relevant supervisory ministries and require approval of the IC Chairman or IC Executive Secretary. Investments involving complications such as mergers and acquisitions require screening at the monthly meeting of an inter-ministerial commission.

¶6. Taiwan offers incentives to encourage investment, including accelerated depreciation and tax credits for investments in emerging or strategic industries, pollution-control systems, production automation, and energy conservation. Equipment for R&D purposes can be brought into Taiwan duty-free. Other incentives include low-interest loans for developing new and/or cutting edge products,

upgrading traditional industries, and importing automation or pollution-control equipment. A broad five-year tax holiday for new investments was re-instituted in January 1995. Incentives for manufacturing firms to locate factories in designated industrial parks to include free rent the first two years, 40% discount on rent the next two years, and 20% discount on rent in the fifth and sixth years has been extended to December 2008. Under another incentive program, state-owned land is available for investors rent-free for the first four years and 50% off for the next six years. As part of its financial reform plan, Taiwan encourages and provides incentives for banks, insurance companies, securities firms, and financial holding companies to merge.

¶7. In 2005 and 2006, Taiwan authorities slashed some investment tax incentives as a part of a tax reform designed to reduce the fiscal deficit. A new law to levy a ten-percent alternative minimum tax on business firms became effective in January 2006. Since early 2005, Taiwan authorities have cut the number of industries entitled to tax incentives by one-third and doubled the thresholds in annual R&D expenses for tax offsets from NT$15-20 million (US$462 thousand to

US$615 thousand) to NT$30-40 million (US$923 thousand to US$1.23 million). The tax credit for procurement of automation equipment has been lowered from 11% to 7% and that for procurement of technologies reduced from 10% to 5%. The tax credit for projects in remote poor areas has been cut from 20% to 15%.

A.2 Conversion and Transfer Policies

¶8. There are relatively few restrictions on converting or transferring direct investment funds. Foreign investors with approved investments can readily obtain foreign exchange from a large number of designated banks. The remittance of capital invested in Taiwan must be reported in advance to the IC, but IC approval is not requited. Declared earnings, capital gains, dividends, royalties, management fees, and other returns on investments can be repatriated at any time. For large transactions requiring the exchange of NT$ into foreign currency which could potentially disrupt Taiwan's shallow foreign exchange market, the central bank may require the transaction to be scheduled over several days. There is no written guideline on the size of such transactions, but amounts in excess of US$100 million may be affected. Capital movements arising from trade in merchandise and services, as well as from debt servicing, are not restricted. No prior approval is required for movement of foreign currency funds not requiring exchange between the NT dollar and the foreign currency. No prior approval is required if the cumulative amount of inward or outward remittances does not exceed the annual limit of US$5 million for an individual or US$50 million for a corporate entity.

¶9. Total outbound investment may not exceed 40% of the investing company's net worth or paid-in capital (whichever is less), unless the company charter waived the 40% limit or unless such investment is approved by shareholders. A local company is not required to obtain prior approval for overseas investments; however, such an approval exempts the company from the annual capital outflow limit of US$50 million. Investments in China are subject to additional restrictions.

¶10. Taiwan has significantly relaxed restrictions on Taiwan entities' direct investment in China down to a negative list covering about 100 manufacturing products and 430 agricultural products. Taiwan has abolished a requirement for direct investment in China to go through third nations or areas and removed a direct investment limit of US$50 million. The ceiling on small and medium enterprises' investment in China is NT$80 million (US$2.5 million). For large enterprises, total China investment may not exceed 20% of the company's net worth exceeding NT$10 billion, 30% of net worth from NT$5 billion to NT$10 billion (US$308 - 615 million), and 40% of the net worth below NT$5 billion (US$154 million). For investments below US$200,000, approval can be issued on the same day of submitting the application. Taiwan authorities require an

investor to submit a quarterly financial report if the cumulative investment in a project exceeds US$20 million. Investors are encouraged to repatriate their capital and earnings.

¶11. Taiwan authorities have actively encouraged investment in Southeast Asia and India. Investments are also encouraged in a number of countries with which Taiwan has diplomatic relations, mainly in Central America. Incentives include loans and/or overseas investment insurance from Taiwan's Export-Import Bank.

A.3 Expropriation and Compensation

¶12. No foreign-invested firm has ever been nationalized or expropriated in Taiwan. No examples of "creeping expropriation" or official actions tantamount to expropriation have been reported. Under Taiwan law no venture with 45% or more foreign investment can be nationalized for a period of 20 years after the venture is established. Expropriation can be justified only for national defense needs and "reasonable" compensation must be given.

A.4 Dispute Settlement

¶13. Taiwan is not a member of the International Center for the Settlement of Investment Disputes or the New York Convention of 1958 on the recognition and enforcement of foreign arbitrage awards. Investment disputes with the Taiwan authorities are not common. Normally, Taiwan resolves disputes according to domestic laws and regulations.

¶14. Taiwan has comprehensive commercial laws, including the Company Law, Commercial Registration Law, Business Registration Law, Commercial Accounting Law as well as laws for specific industries. Taiwan's Bankruptcy Law guarantees that all creditors have the right to share the assets of a bankrupt debtor on a proportional basis. Secured interests in property, both chattel and real, are recognized and enforced through a registration system.

¶15. Taiwan's court system is generally viewed as independent and free from overt interference by the other official branches. Judges are generally over-worked. In response to complaints about the slow pace of judicial decision-making, Taiwan authorities adopted measures in 2002 to monitor case processing time. Simplified courts have been set up to deal with minor cases that can be resolved quickly. The legislature enacted a bill to set up special courts for intellectual property rights (IPR) cases in March 2007, and the courts are scheduled to start reviewing cases in July 2008. The judgments of foreign courts with jurisdictional authority are enforced in Taiwan by local courts on a reciprocal basis.

A.5 Performance Requirements and Incentives

¶16. All of Taiwan's performance requirements were removed in January 2002 upon Taiwan's WTO accession. Like domestic firms, foreign-invested companies must be located in areas zoned for appropriate industrial or commercial use. Taiwan does not require that firms transfer technology, locate in specified areas, or hire a minimum number of local employees as a prerequisite to investment.

¶17. Manufacturing firms located in export-processing zones and science-based industrial parks are required to export all of their production to obtain tariff-free treatment of production inputs. However, these firms may sell on the domestic market upon payment of relevant import duties.

¶18. When acceding to the WTO in January 2002, Taiwan promised to accede to the Government Procurement Agreement (GPA). Taiwan also promised to phase out industrial offset requirements (IOR) for non-military public procurement upon signing the GPA. Taiwan has

yet to accede to the GPA, but even without GPA membership, Taiwan started reducing the IOR coverage of non-military procurements in

¶2004. Currently, only railway and power generation projects are subject to IOR. For these two categories, a contract of US$10 million or more triggers an offset obligation of at least 33%. For military procurements, the threshold is US$5 million, and the minimum offset obligation is 40%. In some military cases, the offset ratio has reached 70% due to legislative pressure. Since the first industrial offset contract (IOC) was signed in 1988, Taiwan has signed IOCs with 51 suppliers from 12 foreign countries. Commitment value of these contracts total US$8.4 billion, and realized contracts amounted to US$5.3 billion. Forty-six percent of the total realized value was directed to transfer of technologies, 27% to foreign direct investment in Taiwan, 15% to procurement from Taiwan, 5% to trade promotion, 4% to personnel training, and 2% to assessment certification. Taiwan has published industrial offset rules in both Chinese and English to which readers can access online.

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A.6 Right to Private Ownership and Establishment
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¶19. Private investors have the right to establish and own business enterprises, except in a limited number of industries involving national security and environmental protection. Private entities can freely acquire and dispose of interests in business enterprises. Private firms have the same access as state-owned companies to markets, credit, licenses, and supplies. Taiwan authorities have eliminated state-owned monopolies.

A.7 Protection of Property Rights

¶20. Taiwan has continued efforts to improve its IPR legal regime and enforcement. The Intellectual Property Office (TIPO) under the Ministry of Economic Affairs as well as other relevant agencies have adopted programs to crack down on Internet and physical piracy. In addition, the Ministry of Education (MOE) announced a campus IPR action plan in October 2007 to strengthen management of academic computer networks and restrict illegal textbook coping by students. Taiwan has amended laws and regulations to meet international standards and requirements. Taiwan has also amended the Patent Law and Copyright Law to extend the term of protection from 18 years to 20 years for some patents and to define computer software as literary works. Taiwan has enacted the Optical Media Law to address CD/DVD piracy problems. The law has established a legal framework for regulation of CD manufacturing plants through licensing and the use of Source Identification (SID) codes in production. Convicted violators may receive prison terms of up to three years and fines of up to NT$6 million (US$184,600). The Optical Media Law, together with effective enforcement, has led to a dramatic decrease in large-scale production of counterfeit CD products. Amendments to the Copyright Law in 2003 and 2004 made copyright infringement a public crime, increased penalties for counterfeiters and made it illegal to tamper with technical protection measures. The Pharmaceutical Law as amended in 2004 and 2007 stiffened penalties for production, distribution and sale of counterfeit medicines. A 2005 amendment to the Law to authorized pharmaceutical data exclusivity for five years to prevent unfair commercial data use --the same data-exclusivity period as in the United States--but U.S. original-drug manufacturers complain that Taiwan authorities unfairly allow generic-pharmaceutical makers to apply for a license and a Bureau of National Health Insurance reimbursement price for their knock-off drugs even before the original drug's data-exclusivity period has expired. A June 2007 amendment to the

Copyright Law subjects illegal file sharing, such as P2P, to a maximum jail term of two years. In March 2007, Taiwan completed legislation of the IP Court Organization Law for establishment of a

specialized IP court which is scheduled to start reviewing cases in July 2008.

¶21. In 2003, Taiwan established the Integrated Enforcement Task Force (IETF), which consists of 220 IP police officers. In 2004, the task force was transformed to a permanent IP police squadron. The IP police have frequently raided retail optical- media sales points. This has led to a significant decrease in the number of counterfeit CD and DVD vendors. Other enforcement measures include increasing the reward by ten times to NT$10 million (US$300,000) to IPR informants for counterfeit -goods seizures , and setting up an anti-pirating CD export task force to strengthen inspection of commodities entering or leaving Taiwan.

¶22. While Taiwan has improved IPR protection, transshipment of counterfeit products from China to the United States remains a problem. Counterfeit goods from Taiwan seized by U.S. Customs dropped from $26.5 million in 2002 to $1.1 million in 2005. The value of seized counterfeit goods was $1.8 million in 2006 and $2.8 million in the first half of FY2007. In addition, Taiwan is facing a growing Internet-based piracy threat. Rights owners continue to complain of slow progress in judicial cases, or poor protection on trade dress properties, such as unregistered marks, packing configurations, and outward appearance features. Although counterfeit and parallel imported pharmaceuticals are still found in the Taiwan marketplace, the legislature passed amendments to the Pharmaceutical Law in 2004 and 2007 to increase the penalties for dealing in counterfeit pharmaceuticals, resulting in marked increases in fines and jail terms over the past several years.

A.8 Transparency of the Regulatory System

¶23. Taiwan has a set of comprehensive laws and regulations regarding taxes, labor, health and safety.

¶24. Foreign investors note that in addition to tax incentives, Taiwan's science-based industrial parks and export processing zones have simple and transparent bureaucratic procedures for the investment application process. Outside of these areas, the Department of Investment Services (DOIS) functions as the coordinator between investors and all agencies involved in the investment process. The Investment Commission (IC) is charged with reviewing and approving inbound and outbound investments.

¶25. Taiwan has simplified work-permit procedures for foreign white-collar employees. In March 2004, the Council of Labor Affairs (CLA) set up a single window to issue work permits for all white-collar workers. It takes 7 to 10 days for the CLA to issue work permits. The work permit may be extended indefinitely as long as the employer considers the employment necessary.

¶26. Taiwan has removed the job experience requirement for employment of foreign management professionals by global operational headquarters and R&D centers as well as business firms of designated industries. White-collar workers having a master's degree or above are not subject to any job experience requirement. Those with lower education levels are required to have job experience. Foreign white- and blue-collar workers have the right to obtain permanent residence status after they have legally stayed in Taiwan for seven consecutive years with the minimum time of residence of 180 days per

year in Taiwan. The seven-year requirement is waived for high-tech personnel and those who have made "significant contributions" to Taiwan.

¶27. The entry-visa issuance procedures for foreign white-collar workers who work for foreign-invested companies are relatively simple. A foreign executive who enters Taiwan with a tourist visa is no longer required to leave the island before the tourist visa can be changed to an employment visa. A foreign executive whose employment visa expires is not required to exit before renewing the visa.

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A.9 Efficient Capital Markets and Portfolio Investment
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¶28. A wide variety of credit instruments, all allocated on market terms, are available to both domestic- and foreign-invested firms. Legal accounting systems are largely transparent and consistent with international standards. The regulatory system is generally fair. Foreign portfolio investors are no longer subject to foreign ownership limits or investment fund limits. In recent years, Taiwan authorities have taken a number of steps to encourage a more efficient flow of financial resources and credit. The limit on NT dollar deposits that a branch of a foreign bank may take has been lifted. Non-residents are permitted to open NT dollar bank accounts, which are subject to capital-flow controls which limit each remittance to US$100,000. There are no restrictions on residents opening bank accounts overseas. Limits on branch banking have been lifted. A freeze on new bank branches to encourage consolidation was removed in 2007. Restrictions on capital flows relating to portfolio investment have been removed. The insurance and securities industries have been liberalized and opened to foreign investment. Access to Taiwan's securities markets by foreign institutional investors has also been broadened.

¶29. Taiwan abolished a complicated regulatory system governing foreign portfolio investment in October 2003. Since then, any foreign institutional investor is allowed to enter Taiwan's markets. Subsequent registration has replaced the need for prior approval. There is no minimum asset requirement. Investment and capital flows are not limited. On-shore foreign investors (like other residents) are still subject to capital flow limits of US$5 million for an individual foreign investor and US$50 million for an unregistered foreign company.

¶30. Taiwan has removed all legal limits on foreign ownership except for investors from China in nearly all companies listed on the Taiwan Stock Exchange (TAIEX). These exceptions include power distribution, telecommunications, mass media firms, and airline companies. There have been no reports of private or official efforts to restrict the participation of foreign-invested firms in industry standards-setting consortia or organizations.

¶31. Taiwan has a tightly regulated banking system. Since the mid-1980s, the financial sector as a whole has been steadily opening to private investment. The market share held by foreign banks had been relatively small until four foreign banks and three foreign private equity funds completed their acquisitions of Taiwan banks in ¶2007. The market share of all foreign banks in Taiwan (including the seven acquired by foreign investors in 2007) increased from 8% in 2006 to 15% in terms of assets in 2007, or from below 3% to nearly 7% in terms of loans. The establishment of a number of new securities firms, banks, insurance companies, and holding companies has underscored this liberalization trend and enhanced competition.

Over the past decade, nine state-owned banks have been privatized. The only Taiwan-based reinsurance company was privatized in 2002. State-controlled banks still dominate the banking sector, however, and hold a market share of 51% in terms of assets and 56% in terms of loans. This share has been falling in recent years as Taiwan has begun privatization efforts.

A.10 Political Violence

¶32. Taiwan is a relatively young multi-party democracy with democratic political institutions that are still evolving. The close margin in the 2004 presidential election resulted in an attack on election offices and several large-scale demonstrations. Nevertheless, these incidents and other protests were peacefully resolved in a short time. There have been no reports of politically motivated damage to foreign investment. Both local and foreign companies have, however, been subject to protests and demonstrations relating to labor disputes and environmental issues.

A.11.a. Corruption

¶33. Taiwan has implemented laws, regulations, and penalties to combat corruption. The Corruption Punishment Statute and the criminal code contain specific penalties for corrupt activities. In January 2004, legislation doubled the penalties for corruption by financial personnel, including maximum jail sentences of up to ten years.

¶34. We are not aware of cases where bribes have been solicited for investment approval. Both central and local governments offer investors incentives, including free rent on land for the first several years and discounts in subsequent years. Taiwan authorities encourage foreign investment and would take action against officials and individuals convicted of profiting illegally from foreign investors.

¶35. The Government Procurement Law promulgated in 1998 and amended in February 2001 was an element of promised significant improvements upon WTO accession. The Public Construction Commission (PCC) now publishes all major state procurement projects that require open bidding, in accordance with WTO transparency requirements. The PCC organizes inspection teams to monitor all public procurement projects both at the central and local levels, and publishes results of bidding and of inspections. A task force has been organized to investigate complaints.

¶36. Authorities generally investigate allegations of corruption and take action to penalize corrupt officials. Since its inauguration in May 2000, the Chen Administration has strengthened anti-corruption efforts. Since then, prosecutors have indicted 10,807 persons for corruption, including prominent personalities, 632 senior officials (department director level and above) and 623 elected officials. Indicted elected officials included 21 legislators. In 2006, the Taiwan High Court upheld a district court's four-year jail sentence for a former speaker of the legislature on a charge of taking a NT$150 million (US$4.6 million) bribe. In 2007, prosecutors indicted a serving minister and a vice minister for receiving bribes, while district courts convicted another two vice ministers with jail terms of up to 16 years.

¶37. Attempting to bribe, or accepting a bribe from, Taiwan

officials constitutes a criminal offense, punishable under the Corruption Punishment Statute and the Criminal Code. The Corruption Punishment Statute as amended in late 2002 treats payment of a bribe to a foreign official as a criminal act and makes such a bribe subject to criminal prosecution. The maximum penalty for corruption is life imprisonment plus a maximum fine of NT$3 million dollars (US$92,300). In addition, the offender may be barred from holding public office. The assets obtained from acts of corruption may be seized and turned over to either the injured parties or the Treasury.

¶B. Bilateral Investment Agreements

¶38. Taiwan has concluded bilateral investment guaranty agreements with the following 26 countries: Argentina, Belize, Burkina Faso, Costa Rica, Dominica, El Salvador, Guatemala, Honduras, India, Indonesia, Liberia, Malaysia, Macedonia, the Marshall Islands, Nicaragua, Nigeria, Panama, Paraguay, the Philippines, Saudi Arabia, Senegal, Singapore, Swaziland, Thailand, Malawi, and Vietnam. In addition, there is an agreement to guaranty Taiwan's investment in Malawi and other agreements to protect U.S. investment in Taiwan (see next paragraph). (An agreement with Latvia signed in 1992 was revoked in August 2004.)

¶39. The terms of the 1948 Friendship, Commerce, and Navigation Treaty between the Republic of China and the United States are still in force, and under the terms of the agreement U.S. investors are generally accorded national treatment and are provided with a number

of protections, including protection against expropriation. Taiwan and the United States also have an agreement, signed in 1952, pertaining to investment guarantees that serve as the basis for the U.S. Overseas Private Investment Corporation (OPIC) program in Taiwan. In September 1994, representatives of the United States and Taiwan signed a bilateral Trade and Investment Framework Agreement (TIFA) to serve as the basis for consultations on trade and investment issues. Consultations on a bilateral investment agreement between the United States and Taiwan began in 1996, and the latest round took place in Washington in 2007.

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¶C. OPIC and Other Investment-Insurance Programs
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¶40. OPIC programs are available to U.S. investors, though U.S. investors have never filed an OPIC insurance claim for an investment in Taiwan. Taiwan is not a member of the Multilateral Investment Guaranty Agency.

¶D. Labor

¶41. Unemployment, at just under 4%, has declined since 2002, but is still above the 1.45% to 2.99% range in the 1990s. Taiwan's aging population, however, has prompted greater demand for foreign caregivers. The percentage of the population aged 65 and above has increased from below 4% in the 1970s to above 10% in late 2007. In response, the number of foreign caregivers has grown to 160,000 and accounts for 45% of blue-collar foreign workers in Taiwan. In the industrial sector, despite relaxation of employment restrictions, the number of the sector's blue-collar foreign workers declined 13% from 228,000 in 2000 to 197,770 in November 2007.

¶42. There are no special hiring practices in Taiwan. Wages typically include a one-month bonus at the end of a year. Benefits often include meals, transportation, and dormitory housing. Dividend-sharing is common among high-tech industries. A standard labor insurance program is mandatory. The program provides paid maternity leave, a lump-sum or annuity retirement plan, and other benefits. A new retirement system implemented in July 2005 abolishes the voluntary retirement scheme under an old system which still covers 30% of total employment population. The old system grants employees voluntary retirement at age 55 with 15 years of service. Employees hired after July 2005 must join the new system, with a retirement age of 60. The new system requires employers to contribute six percent of their monthly wage to accounts at designated banking institutions. The accounts follow employees as they move from one employer to another. A universal national health insurance system, to which employers contribute, covers all Taiwan residents.

¶43. Taiwan provides unemployment relief based on the Employment Insurance Law enacted in 2002. Alternatives for unemployment pay include vocational training allowance for jobless persons and employment subsidies to encourage employment of jobless persons. The Labor Standards Law (LSL) sets a standard eight-hour workday and a biweekly maximum of 84 hours. Legislation adopted in late 2000 set a five-day workweek for the public sector, effective January
¶2001. Over half of private firms have adopted the five-day workweek. The LSL restricts child labor and requires employers to provide overtime pay, severance pay, and retirement benefits. The LSL covers both manufacturing and service sectors. Violators are liable to criminal penalties (jail terms) and administrative punishments (fines).

¶44. In July 2007, Taiwan raised the minimum monthly wage by 9.1% to NT$17,280 (US$532) and the minimum hourly wage from NT$66 (US$2) to NT$95 (US$2.9). Monthly manufacturing sector wages in the first ten months of 2007 averaged NT$43,704 (US$1,345) including overtime, allowances and bonuses.

¶45. Labor unions have become more active and independent since

Taiwan's martial law was lifted in 1987. Privatization and the new retirement system contributed to an increase in labor disputes over the past three years. Taiwan is not a member of the International Labor Organization (ILO) but adheres to the ILO Conventions in protection of worker's rights.

¶E. Foreign Trade Zones/Free Ports

¶46. The first free trade/free port zone began operation at Keelung, Taiwan's northern port, in November 2004. Another four were established in 2005. These four are located at Taoyuan International Airport and the international harbors in Kaohsiung, Taichung, and Taipei. Taiwan authorities have relaxed restrictions on movement of merchandise, capital and personnel into and out of such zones. Foreign investors are accorded national treatment.

¶F. Foreign Direct Investment Statistics

¶47. Statistics on foreign direct investment in Taiwan are available from two sources. The Investment Commission (IC) publishes monthly and yearly foreign investment approval statistics by industry and by country. The Central Bank of the ROC (Taiwan) (CBT) publishes

foreign direct investment arrivals on a quarterly and yearly basis. CBT data, contained in balance-of-payments (BOP) statistics, are not further classified by industry or country.

¶48. In 2006, strong recovery of Taiwan's export sector far offset adverse effects of delinquent credit/cash card debt problems which dampened private consumption in the first half of the year. Growth in exports, which account for over 60% of Taiwan's GDP, accelerated from 8.8% in 2005 to 13% in 2006, driving Taiwan's 2006 real GDP growth to nearly 5%, from 4.2% in 2005.

¶49. Unexpectedly strong economic performance in the second half of 2007 prompted both domestic and foreign forecasters to raise Taiwan's 2007 real GDP growth estimates to 5.2-5.5%. The official estimate is 5.46%. Year-on-year export growth increased from 7.6% in the fourth quarter of 2006 to 14.4% in October-November 2007. Meanwhile, growth in export orders rose from 9.6% to 17.6%, and growth in manufacturing production accelerated from 0.5% to a three-and-a-half-year high of nearly 15%. Most Taiwan forecasters anticipate that Taiwan's economic growth in 2008 will slow to below 4.5%. They believe that the U.S. sub-prime mortgage problem, as well as higher international prices for oil and grains, will dampen world economic performance and reduce demand for products from the export-oriented economy of Taiwan. In the first eleven months of 2007, approved FDI increased 20% year-on-year to US$14 billion. Approved FDI was concentrated in banking, trade, electronics, basic metal, and nonmetallic products. These five categories accounted for nearly 80% of total approved FDI.

¶50. Approved direct investment in electronics industries (including communications, semiconductor, TFT-LCD and other optical electronic projects) increased from 6.4% of total approved FDI prior to 1995 and 19% in 1996-2000 to 24.5% in 2001-2005 and further to 47% in
¶2006. Meanwhile, the percentage share for financial services increased from 7.6% prior to 1995 and 22% in 1996-2000 to 25.6% in 2001-2005 and 34% in 2006. Nearly 80% of the approved inbound direct investment in Taiwan's electronics industries came from the United States, Europe and Japan.

¶51. The United States and Japan used to be the two main sources of Taiwan's foreign investment, but have been replaced by the tax havens in the British Territories in America (BTA), which harbor a growing number of multinational corporations (many with roots in Taiwan). According to official Taiwan statistics, approvals for U.S. investment from 1952 to 2006 totaled US$15 billion (US16.1 billion according to official U.S. figures), or 19% of total foreign investment. Of total U.S. investment, 32% was directed toward the electronics and electrical industries, and 44% toward the service

sector. Approvals for Japanese investment amounted to US$14 billion, or 18% of total foreign investment, of which 31% was in electronics and electrical industries and 34% in the service sector. In 2006, new EU investment exceeded that of the United States or Japan due to a major holdings transfer by the Philips Company.

¶52. Approvals for investment from the BTA surged steadily from US$76 million in 1994 to US$1.2 billion in 1999 when the BTA surpassed the United States and Japan to become the largest source of foreign investment in Taiwan. Investment from the BTA during 1999-2005 accounted for 27% of total approved investments, compared to 18% from the United States, another 18% from Europe, and 15% from Japan. In 2006, a holdings transfer by the Philips Company drove down the BTA's share to 16.5%, the United States' share to 19% and Japan's share to 18%, while Europe's share reached 21.6%. One quarter of the investment from the BTA was directed towards financial services and another quarter to the electronic and

electrical industries.

¶53. As a relatively open and liberal economy, Taiwan receives foreign investment while its businesses invest overseas, especially in China, Southeast Asia and the Americas. According to balance-of-payments statistics compiled by the central bank, outbound direct investment has exceeded inbound direct investment every year since 1988. According to IC statistics, by 2006, cumulative approvals for outbound investments totaled US$103.7 billion. The main recipient of Taiwan investment has been China, which has received over half of Taiwan's outbound investment. Approved investments in China increased by 27% in 2006 when 64% of Taiwan's new overseas investment went to China.

¶54. Taiwan business firms started to relocate their production bases to China in the late 1980s. Production lines in China gradually shifted from cheap labor-oriented industries in the late 1980s to products requiring lower-end technologies, such as PCs and motherboards, in the early 2000s. The WTO accession of China and Taiwan in 2002 prompted Taiwanese business firms to accelerate relocation to China to sharpen their competitive edge in exports. Taiwan factories based in China use the lower labor and land costs to process Taiwan-made production inputs into finished goods for exports to such industrial markets as the United States, Japan and Europe, and also for final sale in China. Rising labor and land costs in China have prompted some Taiwan firms to move from China to nations in South and Southeast Asia, including Vietnam.

¶56. Taiwan's annual registered direct investment across the Taiwan Strait grew from US$1.25 billion in 1999 to US$6.0 billion in 2005 and US$7.6 billion in 2006. As a result of this trend Taiwan factories, primarily those based in China and Vietnam, produced nearly 50% of export orders received by Taiwan companies' headquarters by November 2007, up from 11.5% in early 2000, and 2007 ratio reached 85% for information technology (IT) firms. Greater China (China plus Hong Kong) replaced the United States as Taiwan's largest export market in 2001, and Greater China's share of Taiwan's exports in the first 11 months of 2007 reached 41%, much higher than the 13% for the United States and 11% for the European Union.

Table 1
Foreign Investment Approvals by Year and by Area
(1952-2006) (unit: US$ million)

Year	U.S.A.	Japan	Central America	Europe	Hong Kong	Other	Total
52-89	3,067	2,983	341	1,312	1,198	2,049	10,950
1990	581	839	66	283	236	297	2,302
1991	612	535	60	165	129	277	1,778
1992	220	421	37	165	213	405	1,461
1993	235	278	38	214	169	279	1,213